

142 FERC ¶ 61,179  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

Dominion Transmission, Inc.

Docket Nos. CP12-19-000  
CP12-20-000

ORDER ISSUING CERTIFICATES

(Issued March 8, 2013)

1. On November 21, 2011, Dominion Transmission, Inc. (Dominion) filed two applications, under section 7(c) of the Natural Gas Act (NGA),<sup>1</sup> for certificates of public convenience and necessity authorizing the construction and operation of two discrete projects in Pennsylvania and New York on Dominion's existing system. In Docket No. CP12-19-000 (Tioga Area Expansion Project), Dominion requests authority to construct and operate 15 miles of new 24-inch diameter pipeline and other facilities on its existing transportation system located in Tioga, Greene, Potter, and Clinton Counties, Pennsylvania and Steuben County, New York. The Tioga Area Expansion Project will enable Dominion to provide an additional 270,000 dekatherms (Dth) per day of firm transportation service for two shippers. In Docket No. CP12-20-000 (Sabinsville to Morrisville Project), Dominion requests authority to install 3.56-miles of new 24-inch diameter pipeline along with new piping facilities in Tioga County, Pennsylvania. The Sabinsville to Morrisville Project will enable Dominion to establish a new receipt point for Tennessee Gas Pipeline Company, L.L.C.'s (Tennessee) existing transportation service on Dominion.

2. These two projects are operationally distinct and independent. However, because the two projects are located in the same geographic region, their environmental impacts were analyzed in a joint Environmental Assessment (EA). Therefore, we will consider both projects in this order. However, the two proceedings are not consolidated.

3. We will grant the requested authorizations, subject to conditions, as discussed below.

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<sup>1</sup> 15 U.S.C. § 717f(c) (2006).

**I. Background**

4. Dominion, a Delaware corporation, engages primarily in the business of transporting and storing natural gas in interstate commerce for customers principally located in New York, Ohio, Pennsylvania, West Virginia, Virginia, and Maryland. Dominion operates approximately 11,000 miles of transmission and gathering pipelines and an integrated network of underground natural gas storage systems with approximately 947 billion cubic feet (Bcf) of storage capacity.

**II. Proposals****A. Tioga Area Expansion Project Proposal**

5. Dominion proposes to construct and operate approximately 15 miles of 24-inch diameter pipeline (TL-610 Ext. 1), parallel to its existing LN-50 line, extending from the existing Tennessee Sabinsville Metering and Regulating (M&R) Station to a new Dominion launcher/receiver site in Tioga County, Pennsylvania. As part of this project, Dominion would remove its previously abandoned line LN-280, which is located at the southern terminus of the proposed TL-610 Ext. 1.

6. In addition, Dominion proposes to construct 792 feet of 24-inch diameter pipeline (TL-614) and a new station firegate at Dominion's existing Little Greenlick Compressor Station in Potter County, Pennsylvania, as well as 894 feet of 24-inch diameter pipeline (TL-615) and a new meter and regulating station at Dominion's existing Crayne Compressor Station in Greene County, Pennsylvania. The latter facilities will establish a new point of interconnection between Dominion and Texas Eastern Transmission, LP (Texas Eastern).

7. Dominion also proposes to make modifications at several other M&R stations and compressor stations in Potter, Greene, Tioga, and Clinton Counties, Pennsylvania and Steuben County, New York. Specifically, Dominion proposes to:

- a. replace the control valve equipment at Dominion's Boom Station in Tioga County, Pennsylvania;
- b. add an extension to suction header No. 3 at Finnefrock Station in Clinton County, Pennsylvania; and
- c. replace the control valve equipment at Lindley Gate in Steuben County, New York.

8. Dominion states that the Tioga Area Expansion Project will enable it to provide 270,000 Dth per day of additional firm natural gas transportation service from the primary receipt points in Tioga and Potter Counties, Pennsylvania to Dominion's existing

interconnect with Transcontinental Gas Pipe Line Company, LLC (Transco) at Leidy in Clinton County, Pennsylvania (150,000 Dth per day) and a new interconnect with Texas Eastern at Dominion's existing Crayne Station in Greene County, Pennsylvania (120,000 Dth per day). Dominion estimates that the Tioga Area Expansion Project will cost approximately \$67,221,544, including an allowance for funds used during construction (AFUDC) of \$2,227,094 with accruals beginning in May 2011.

9. After an open season conducted in the first quarter of 2011, Dominion executed binding precedent agreements with Shell Energy North America (Shell) in February 2011 for 250,000 Dth per day of firm transportation capacity for fifteen years and with Penn Virginia Oil & Gas Company (Penn VA) for 20,000 Dth per day of firm transportation capacity for fifteen years.<sup>2</sup> Dominion proposes to use the existing applicable rates under its Rate Schedule FT as the recourse rates for service on the Tioga Area Expansion Project facilities and seeks a predetermination that it will be appropriate to roll the costs of the expansion project facilities into its general system rates in its next NGA section 4 rate proceeding.<sup>3</sup>

**B. Sabinsville to Morrisville Project Proposal**

10. Dominion proposes to install approximately 3.56 miles of new 24-inch diameter pipeline (TL-610), parallel to its existing 26-inch diameter LN-50 pipeline, beginning at an interconnection with Tennessee's existing Sabinsville M&R Station and ending near Dominion's existing Sabinsville Compressor Station. Dominion also proposes to install aboveground and buried yard piping and appurtenances that would connect the new TL-610 line to Tennessee's Sabinsville M&R Station. All of the proposed facilities will be in Tioga County.

11. The Sabinsville to Morrisville Project will enable Dominion to accommodate Tennessee's request to move 92,000 Dth per day of firm primary receipt point rights from its existing receipt point near North Sheldon, New York, to the interconnection between Dominion and Tennessee at Tennessee's Sabinsville M&R Station. Dominion states that no incremental transportation capacity will be created as a result of the Sabinsville to Morrisville Project. Tennessee's primary delivery point will remain at the existing point near Morrisville, New York.

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<sup>2</sup> In a response to staff's March 7, 2012 data request, Dominion stated that, at the time of the open season, it did not solicit requests for turn-back capacity because none of their existing customers with service agreements had northern or southern delivery points that met the requirements of the proposed project. *See* March 27, 2012 Data Response No. 5.

<sup>3</sup> *See* 15 U.S.C. § 717c (2006).

12. Dominion estimates that the Sabinsville to Morrisville Project will cost approximately \$16,759,375, including an AFUDC of \$559,375 with accruals beginning in January 2011. Tennessee and Dominion have agreed to amend and extend Tennessee's existing firm transportation agreement to fourteen years. In addition to the existing Rate Schedule FT reservation rate, Dominion proposes to charge Tennessee a monthly surcharge to compensate Dominion for the construction of facilities necessary to accommodate Tennessee's request to move its primary receipt point rights.

### **III. Notices, Interventions, and Comments**

13. Notices of Dominion's Sabinsville to Morrisville and Tioga Expansion Project applications were published in the *Federal Register* on December 12, 2011 (76 Fed. Reg. 77,217 and 76 Fed. Reg. 77,218, respectively). The City of Richmond, Virginia, Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works (jointly), Constellation NewEnergy-Gas Division, LLC, National Fuel Gas Distribution Corporation, National Grid Gas Delivery Companies, New Jersey Natural Gas Company, New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation (jointly), NJR Energy Services Company, Noble Energy, Inc., PECO Energy Company, Piedmont Natural Gas Company, Inc. (Piedmont), PSEG Energy Resources & Trade LLC, and Ultra Resources, Inc. (Ultra) filed timely, unopposed motions to intervene in both proceedings.<sup>4</sup> The New York State Public Service Commission filed a notice of intervention in both proceedings.<sup>5</sup> Atmos Energy Corporation filed a timely unopposed motion to intervene in only the Tioga Expansion Project proceeding. Piedmont included comments in the Tioga Expansion Project proceeding, requesting that the Commission defer a decision regarding Dominion's request for a predetermination in favor of rolled-in rate treatment for the proposed facilities until Dominion's next section 4 rate proceeding. Piedmont's request is discussed below.

### **IV. Discussion**

14. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.<sup>6</sup>

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<sup>4</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214(c) (2012).

<sup>5</sup> Timely notices of intervention are granted by operation of Rule 214(a)(2) of the Commission's Rules of Practice and Procedure. *See id.* § 385.214(a)(2).

<sup>6</sup> 15 U.S.C. §§ 717f(c) and 717f(e) (2006).

**A. Certificate Policy Statement**

15. The Certificate Policy Statement provides guidance for evaluating proposals for certificating new construction.<sup>7</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new storage and pipeline construction.

16. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

17. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Dominion has presented evidence that the incremental revenue from services using the proposed Tioga Area Expansion Project facilities will exceed the incremental costs of constructing and operating the proposed facilities. In addition, Dominion has entered into long-term precedent agreements for 100 percent of the design capacity of the project. Thus, existing customers will not subsidize the facilities and, absent a change in circumstances, the ultimate roll-in of the project's costs should have a positive impact on rates for Dominion's existing customers. As for the Sabinsville to Morrisville Project, Tennessee has agreed to pay an incremental additive rate that will recover the cost of the project. Thus, existing customers will be shielded from subsidizing the cost of the project.

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<sup>7</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

18. We find that the projects will not adversely affect Dominion's existing customers, or other pipelines and their customers. The proposed Tioga Area Expansion Project facilities are designed to provide incremental service for new shippers. Commission staff has confirmed that the proposed project should have no effect on service to Dominion's existing firm customers. In addition, no pipelines have filed adverse comments regarding Dominion's proposal. As for the Sabinsville to Morrisville Project, we similarly find that Dominion's existing customers would not be affected and other pipeline's captive customers also would not be affected.

19. We further find that Dominion has taken steps to minimize any adverse impacts to landowners and communities that might be affected by its projects. Dominion will construct the proposed facilities adjacent to existing pipeline rights-of-way or within existing facility property boundaries. No landowners affected by the proposal have protested or filed comments in opposition to the project.

20. Based on the benefits the projects will provide to project shippers, the lack of adverse impacts on Dominion's existing customers, other pipelines and their captive customers, and the minimal adverse effects on landowners or communities, we find that Dominion's proposed projects are consistent with the Certificate Policy Statement and required by the public convenience and necessity, as conditioned in this order.

## **B. Rates**

### **1. Tioga Area Expansion Project**

21. We approve Dominion's proposal to use the applicable rates under its Rate Schedule FT as the recourse rates for service on the Tioga Area Expansion Project facilities.

22. As discussed above, Dominion has proposed to use the applicable existing rates under its Rate Schedule FT as the recourse rates for service on the Tioga Area Expansion facilities. Because the revenue which would be produced from those rates would exceed the incremental costs of constructing and operating the proposed facilities, we will approve Dominion's proposal. Dominion also requests the Commission make a predetermination that, absent a significant change in circumstances, the costs associated with the Tioga Area Expansion Project facilities will be rolled into its existing system rates in its next NGA section 4 rate proceeding.

23. Piedmont, a current Dominion customer, argues in its comment that Dominion's proposal for preliminary determination is premature and requests the Commission defer any decision concerning the rate treatment of the expansion facilities until Dominion's next NGA section 4 rate proceeding. Piedmont claims that during a NGA section 4 proceeding, system customers would have the opportunity to request all necessary data

required to evaluate the requested roll-in and provide fully informed input on Dominion's proposal.

24. We will grant Dominion's request for a presumption favoring rolled-in rate treatment in its next rate case. Contrary to Piedmont's assertion that such a ruling is premature, it is Commission policy to make a predetermination as to the appropriate pricing for new facilities in the certificate proceeding in which their construction is authorized,<sup>8</sup> in order to provide certainty regarding the potential economic impacts of a project before construction begins.<sup>9</sup> The proposed expansion facilities are integrated with Dominion's existing system and existing compression on Dominion's mainline system will be used to effectuate the receipt and delivery of expansion volumes to Shell and Penn VA. As demonstrated by Dominion in Exhibits N and P of its application, the estimated incremental firm reservation rate of \$3.6757 Dth for the first year would be lower than the current firm transportation service reservation rate of \$3.8820 Dth. Further, Dominion presented evidence in Exhibit N that the estimated new revenues will exceed the estimated incremental cost of service in each of the first three years of the project life. Under these circumstances, it is appropriate for the Commission to make a presumption favoring rolled-in rate treatment for the costs of the Tioga Area Expansion Project in Dominion's next NGA section 4 rate proceeding, absent any significant change in circumstances, in order to insure that the project will not be subsidized by existing customers.

25. Nevertheless, the Commission's predetermination regarding rolled-in rate treatment for this project's costs does not prejudice any decision with regard to the appropriate allocation of these costs among Dominion's existing customers and services under its various rate schedules. When Dominion files its next NGA section 4 rate case to recover the costs of the Tioga Area Expansion Project, Piedmont or any other party will have all discovery rights afforded by the Commission's Rules of Practice and Procedure.<sup>10</sup> If any party believes that the factual representations made in this proceeding ultimately do not prove to be true, it may raise such pricing issues at that time.

## **2. Sabinsville to Morrisville Project**

26. Dominion proposes to recover the costs of the Sabinsville to Morrisville Project by means of an incremental monthly firm reservation surcharge. The surcharge would be in addition to the firm reservation rates, charges, and fuel retention currently being paid by

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<sup>8</sup> See *Colorado Interstate Gas Co.*, 94 FERC ¶ 61,382, at 62,433 (2001).

<sup>9</sup> *Certificate Policy Statement*, 88 FERC ¶ 61,227, at 61,750 (1999).

<sup>10</sup> See 18 C.F.R. Part 385, Subpart D (2012).

Tennessee, as a firm transportation customer of Dominion. Dominion has calculated a monthly recourse surcharge of \$2.6869 per Dth (equal to a 100 percent load factor surcharge of \$0.0883 Dth per day for delivery of 92,000 Dth per day), based on a first-year cost of service of \$2,966,338 and the rate of return and other factors used in determining the rate established in Dominion's last general rate case on November 24, 1998.<sup>11</sup>

27. Dominion maintains that although the proposed facilities will be integrated into Dominion's system, no additional incremental transportation capacity will be created by the project, which is intended solely to enable Tennessee to move its existing receipt point to the new Sabinsville M&R Station point. Dominion's overall firm billing determinants will not increase as a result of this project. Under these circumstances, we find the surcharge to be the appropriate method of insuring that other existing customers do not subsidize the Sabinsville to Morrisville Project's costs.<sup>12</sup> We will require Dominion to file actual tariff records setting forth its incremental recourse surcharge at least 30 days but not more than 60 days prior to commencing service utilizing the project's facilities.

28. Dominion states that Tennessee has agreed to pay a negotiated incremental rate surcharge. Dominion must file all negotiated rate agreements or a tariff record describing the negotiated rate agreements associated with this project, in accordance with our treatment of negotiated rates<sup>13</sup> and our statement of policy on alternative rates.<sup>14</sup>

### **C. Environmental Analysis**

29. On January 24, 2012, the Commission issued a "Notice of Intent to Prepare an Environmental Assessment for the Proposed Tioga Area Expansion and Sabinsville to Morrisville Projects, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting" (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; potentially interested Indian tribes; local libraries and newspapers; and affected property owners.

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<sup>11</sup> See *CNG Transmission Corp.*, 85 FERC ¶ 61,261 (1998).

<sup>12</sup> See, e.g., *Dominion Transmission, Inc.*, 129 FERC ¶ 61,012 (2009).

<sup>13</sup> See, e.g., *Texas Eastern Transmission, LP*, 133 FERC ¶ 61,220 (2010).

<sup>14</sup> *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, at 61,231, order granting clarification, 74 FERC ¶ 61,194, *reh'g denied*, 75 FERC ¶ 61,024 (1996).



30. We received comments in response to the NOI from the U.S. Army Corps of Engineers (Army Corps), U.S. Environmental Protection Agency (EPA), Pennsylvania Department of Environmental Protection (PADEP), U.S. Fish and Wildlife Service, Citizens for Pennsylvania's Future (PennFuture), and one set of landowners (Stephen and Marion Jacobsen). The primary environmental issues raised in response to the NOI include potential impacts on water resources and wetlands, potential impacts on wildlife and avian species, disposal of solid waste and materials dredged during construction, air emissions, and cumulative impacts.

31. To satisfy the requirements of the National Environmental Policy Act (NEPA),<sup>15</sup> our staff prepared an environmental assessment (EA) for Dominion's proposals. The EA was prepared with the cooperation of the Army Corps' Baltimore District.<sup>16</sup> The analysis in the EA addressed geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

32. The EA was issued for a 30-day comment period and placed into the public record on November 29, 2012. The Notice of Availability issued for the EA indicated that the closing date for comments was December 31, 2012. We received comments on the EA from: (i) the Pennsylvania Department of Conservation and Natural Resources (PDCNR) on January 7, 2013; (ii) PennFuture on December 31, 2012; and (iii) EPA on January 8, 2013 (EPA's comments were sent directly to staff and subsequently entered into the public record). Dominion filed a response to PennFuture's comments on January 8, 2013, to which PennFuture responded on January 15, 2013. Dominion also filed a response to EPA's comments on January 10, 2013.

### **1. Plant Species, Invasive Species, and State Forest Lands**

33. The PDCNR comments on state-listed plant species, invasive species, and the crossing of state forest lands. The EA indicates that Dominion committed to completing additional plant surveys as requested by the PDCNR, and that Dominion would develop measures to reduce or mitigate any potential impacts on state listed sensitive species. At this time, Dominion has not yet filed the results of the additional botanical surveys with the Commission. However, in its December 27, 2012 filing, the PDCNR states that Dominion had conducted surveys in the Fall of 2011 and in June and July 2012. According to the PDCNR, no species of special concern were identified during those

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<sup>15</sup> 42 U.S.C. §§ 4321-4347 (2006).

<sup>16</sup> See generally 40 C.F.R. § 1501.6 (2012) (describing a cooperating agency under NEPA).

surveys. Therefore, the PDCNR found that no impacts are likely to occur on plant species of special concern as a result of proposed project elements in Pennsylvania.

34. The PDCNR also recommends that Dominion take voluntary measures to prevent the spread of invasive species. The EA describes several measures Dominion would implement to prevent the spread of invasive species, including its commitment to prepare a plan prior to construction that meets PDCNR requirements regarding invasive plant species.<sup>17</sup> At this time, Dominion has not yet filed that plan with the Commission. Environmental Condition 13, however, requires Dominion to file its project-specific Noxious Weed Prevention Plan for staff's review and approval prior to construction.

35. The PDCNR indicates that further consultations between Dominion and the Bureau of Forestry would be necessary before State Forest lands could be crossed. In particular, the Bureau of Forestry may request additional surveys. In addition, the PDCNR expects Dominion to follow the Bureau of Forestry's *State Forest Resource Management Plan*, which sets forth guidelines for the protection of wetlands and wildlife, among other resources. The EA notes that Dominion committed to constructing its facilities in compliance with applicable federal, state, and local permits, including the requirements of the PDCNR. As stated in the EA, Dominion should obtain an easement from the PDCNR's Bureau of Forestry for crossing State Forest lands. The EA also indicates that Dominion would consult with the PDCNR about the use of a different seed mix for State Forest lands. At this time, Dominion has not yet filed with the Commission its area-specific Erosion Control Plans or Revegetation and Restoration Plans. Environmental Condition 12, however, requires Dominion to file its area-specific Revegetation and Restoration Plans for staff's review and approval prior to construction.

## **2. Air Quality and Cumulative Air Impacts**

36. In their comments on the EA, PennFuture and EPA raise issues about air quality impacts. Specifically, the comments focus on the designations characterizing air quality in the region that were reported in the EA, identification of regulations applicable to the projects, cumulative air impacts, and indirect air impacts.

37. First, PennFuture claims that the EA contained errors and mischaracterized potential air quality impacts by implying that the majority of the project area is designated "Unclassified or Attainment" for criterion pollutants. We disagree. The EA correctly states that air quality in the project area has been designated as "Unclassified or Attainment" for criteria pollutants in most of the counties, except for Greene County, Pennsylvania, which is in maintenance for eight-hour ozone under the 1997 standard, and a small portion of which is in non-attainment for particulate matter less than 2.5 microns

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<sup>17</sup> See section 4.2 of the EA at 46.

in diameter (PM<sub>2.5</sub>) under the 2006 PM standard.<sup>18</sup> Tioga County, Pennsylvania is also listed as in maintenance for ozone under the 1997 standard and within the State Implementation Plan (SIP).<sup>19</sup>

38. EPA argues that the EA did not discuss the significance of the Ozone Transport Region (OTR) non-attainment status for ozone, which EPA states is where portions of the proposed projects are located. Under the Clean Air Act, if a project is proposed in a location that is designated as a non-attainment area for any criteria pollutant, a review must be conducted to determine whether emissions would exceed the General Conformity Applicability Threshold.<sup>20</sup> For Dominion's projects, the OTR region is only classified as moderate non-attainment for ozone for purposes of state permitting requirements, not for purposes of General Conformity Determination under the Clean Air Act. As stated in the EA, the construction emissions would not exceed the General Conformity Applicability Threshold.<sup>21</sup> The EA correctly concludes that the projects' emissions will not result in emissions of a magnitude that would cause violations of the National Ambient Air Quality Standards (NAAQS) or exceed the General Conformity Applicability Thresholds for ozone and PM<sub>2.5</sub>.

39. EPA also states that the EA does not discuss the applicability of the New Source Review program under the Clean Air Act. The EA summarizes the general conformity review for all counties covered by the projects, together with a discussion of Pennsylvania's SIP, and determines that the construction emissions of criteria pollutants from the projects would fall within the SIP.<sup>22</sup> Section 7.1.1 of the EA describes the New Source Review Program and determines that, because the program applies to major stationary sources that emit or have the potential to emit 250 tons per year (tpy) of criteria pollutants or 100 tpy of specified source categories, none of the projects' facilities would trigger the program requirements.

40. In addition, EPA questions the EA's explanation that the New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (NESHAP) would not apply to the proposed facilities. We agree with the EA's determination that neither the New Source Performance Standards (NSPS) nor the NESHAP program is applicable to the proposed projects because none of the facilities would be permanent

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<sup>18</sup> See section 7.1 of the EA at 71.

<sup>19</sup> See *id.*

<sup>20</sup> See 42 U.S.C. § 7506(c) (2006).

<sup>21</sup> See section 7.1.2 of the EA at 72.

<sup>22</sup> See section 7.1.2 of the EA at 72.

sources of emissions.<sup>23</sup> The EA concludes that the projects' air emissions would be below all Clean Air Act permitting thresholds.

41. PennFuture argues that the EA disregards indirect and cumulative air quality impacts from seven existing compressor stations currently operated by Ultra, a natural gas producer with a delivery point into Dominion's system in Tioga County. EPA also asserted that the EA does not address cumulative air impacts and does not explain the methodology of staff's analysis.

42. We disagree. Cumulative air impacts are discussed and analyzed in section 9.6.1 of the EA.<sup>24</sup> In addition, the EA describes the methodology the staff used to ensure that all existing and reasonably foreseeable facilities were identified.<sup>25</sup>

43. The EA discusses the potential for increased emissions from existing and reasonably foreseeable sources, including non-jurisdictional oil and gas exploration and production.<sup>26</sup> Table B-14 in the EA lists other facilities in the project area (including those constructed and operated by Ultra) that may contribute emissions that impact cumulative air quality. Additionally, the EA considers the numerous compressor stations, including Ultra's compressor stations that have been permitted in the affected counties.<sup>27</sup> Although the compressor stations have been identified and accounted for, data about exact emission levels from these compressor stations are not easily obtained, as the EA acknowledges.<sup>28</sup>

44. The EA concludes that the only air impacts attributable to the projects are those emissions from construction equipment, which would be minor and temporary. Therefore, adding the projects' minimal emissions to the area will result in negligible cumulative impact. The EA also states that the emissions generated from Dominion's proposed projects would be so minimal that incremental impacts on regional air quality will likely be offset by future reductions in emissions from transportation, industrial, and residential sources.<sup>29</sup> For example, the replacement of coal with natural gas as fuel for

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<sup>23</sup> See section 7.1.1 of the EA at 71.

<sup>24</sup> See section 9.6.1 of the EA at 88.

<sup>25</sup> See *id.*

<sup>26</sup> See section 9.0 of the EA at 84.

<sup>27</sup> See section 9.6.1 of the EA at 88.

<sup>28</sup> See section 9.6.1 of the EA at 89.

<sup>29</sup> See section 9.6.1 of the EA at 90.

power plants would result in additional decreases in regional criteria pollutant emissions. In sum, we find that the EA's cumulative air quality impacts analysis is appropriate.

45. With regard to indirect impacts, both PennFuture and EPA comment that existing compressors would need to operate at higher levels as a result of the projects' operations. EPA contends that new pipeline capacity could result in additional emissions from compressor stations and may hinder achieving the NAAQS for ozone and PM<sub>2.5</sub> in non-attainment areas. The EA discusses NAAQS in section 7.1.<sup>30</sup> Dominion states that its existing compressor stations can handle the new capacity without adding horsepower or increasing air emissions. Each of the stationary facilities identified in Table B-14 of the EA, including the Ultra compressor stations and the other compressor stations identified by PennFuture have an existing maximum potential to emit that is dependent upon the permit type. We have no evidence that any of these facilities would be required to be upgraded or have emissions increased due the projects or other activities within the region. Each of the above-mentioned stationary facilities could not increase its emissions or change the facility substantially without first modifying its air quality permit with the PADEP.

46. EPA posits that there could be additional emissions generated because the proposed pipeline capacity could relieve flow constraints at Dominion's compressor stations. However, as Dominion states in its January 10, 2013 response, it does not anticipate any increased utilization of the compressor stations. Because Dominion's compressors are currently configured to utilize their maximum horsepower capacity, there is no constraint to be removed by new pipeline system components. Thus, there should not be an increase in operational emissions. There is no evidence calling Dominion's expectations on this issue into question. Moreover, we have determined that based on the scope of the projects, the new pipeline capacity is unlikely to induce any discernible expansion of other natural gas facilities. However, if Dominion were to increase operational emissions, Dominion would be required to modify its air quality permit with the PADEP.

47. EPA also comments that the statement in the EA that there "could be" emissions from construction and operation of aboveground facilities was misleading because it implies the possibility that the facilities may not increase emissions. To clarify, the Commission recognizes that while no aboveground facilities would require air permitting, minimal levels of natural gas can leak during operation of the aboveground facilities (mostly valves) to be modified by the projects. Dominion confirms, in its January 10, 2013 response to EPA's comments, that if small amounts of natural gas are emitted during operation of facilities, it would be far below air quality permit applicability thresholds. Therefore, the use of the word "could" in the EA sentence in question is appropriate. As detailed in sections 7.1.2 and 7.1.3 of the EA, there would be

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<sup>30</sup> See section 7.1 of the EA at 71.

no permanent emissions from the proposed facilities; however, emissions could result from very infrequent maintenance activities such as pipeline pigging, which would have releases of methane and other volatile organic compounds.

48. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Dominion's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

49. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.<sup>31</sup>

50. For the reasons discussed above, and with the conditions imposed herein, the Commission finds that Dominion's proposal is required by the public convenience and necessity and we are issuing the requested certificate authorizations.

51. The Commission received and made part of the record in this proceeding all evidence, including the application, as amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Dominion to construct and operate the Tioga Area Expansion Project and the Sabinsville to Morrisville Project facilities, as described more fully in this order and in the applications.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on the following:

- (1) Dominion's completing the authorized construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;

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<sup>31</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

- (2) Dominion's compliance with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) Dominion's compliance with the environmental conditions listed in the appendix to this order.

(C) Dominion's proposal to use its currently-effective rates under Rate Schedule FT as its initial recourse rates for service on the Tioga Area Expansion Project is approved. Dominion's request for a predetermination favoring rolled-in rate treatment of the Tioga Area Expansion Project costs in Dominion's next general rate case is approved, absent a significant change in circumstances.

(D) Dominion must execute firm natural gas transportation contracts equal to the level of service represented in its precedent agreements prior to commencing construction.

(E) Dominion's request for authority to assess a Rate Schedule FT reservation surcharge for services on the Sabinsville to Morrisville Project is approved.

(F) Dominion shall file actual tariff records with the incremental recourse surcharge no earlier than 60 days and no later than 30 days prior to the date the Sabinsville to Morrisville Project facilities go into service.

(G) Dominion shall file its negotiated rate agreements or a tariff record describing the negotiated rate agreements no earlier than 60 days and no later than 30 days prior to the date the Sabinsville to Morrisville Project facilities go into service.

(H) Dominion shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Dominion. Dominion shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## Appendix

### Environmental Conditions

As recommended in the EA, this authorization includes the following conditions:

1. Dominion Transmission, Inc. (Dominion) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by the order. Dominion must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the projects. This authority shall allow:
  - a. the modification of conditions of the order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, Dominion shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the order. All requests for modifications of environmental conditions of the order or site-specific



clearances must be written and must reference locations designated on these alignment maps/sheets.

Dominion's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the order must be consistent with these authorized facilities and locations. Dominion's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Dominion shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by our Upland Erosion Control, Revegetation, and Maintenance Plan, and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and before construction** begins Dominion shall file an Implementation Plan (IP) with the Secretary for review and written approval by the Director of OEP. Dominion must file revisions to the plan as schedules change. The IP shall identify:

- a. how Dominion will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the order;
  - b. how Dominion will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - c. the number of EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of the environmental compliance training and instructions Dominion will give to all personnel involved with construction and restoration, and refresher training as the project progresses and personnel change, with the opportunity for OEP staff to participate in the training sessions;
  - f. the company personnel (if known) and specific portion of Dominion's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Dominion will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration
7. Dominion shall employ at least one EI per construction spread. The EIs shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of the order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and

- f. responsible for maintaining status reports.
8. Beginning with the filing of its IP, Dominion shall file updated status reports with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Dominion's efforts to obtain the necessary federal authorizations;
  - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
  - e. the effectiveness of all corrective actions implemented;
  - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Dominion from other federal, state, or local permitting agencies concerning instances of noncompliance, and Dominion's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Dominion shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Dominion must receive written authorization from the Director of OEP **before placing the projects into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the projects are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities in service**, Dominion shall file an affirmative statement with the Secretary, certified by a senior company official:

- a. that the facilities have been constructed and installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Dominion has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. **Prior to construction**, Dominion shall file with the Secretary copies of its area-specific Revegetation and Restoration Plans, for review and approval by the Director of OEP.
13. **Prior to construction**, Dominion shall file with the Secretary its project-specific Noxious Weed Prevention Plan, together with documentation that the plan was developed in consultations with appropriate state and local agencies.
14. **Prior to construction**, Dominion shall file with the Secretary the comments of the U.S. Fish and Wildlife Service on its Migratory Bird Habitat Conservation Plans, and Dominion's responses to those comments.
15. Dominion **shall not begin construction** of the proposed TL-615 pipeline and meter station in Docket No. CP12-19-000, and associated staging, storage, or temporary work areas and new or to-be-improved access roads, **until**:
  - a. Dominion files with the Secretary comments from the Pennsylvania State Historic Preservation Office on the TL-615 cultural resources inventory report; and
  - b. the FERC staff reviews and the Director of OEP approves the cultural resources report, and notifies Dominion in writing that construction may proceed.